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FILED

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5 Attorneys for Defendants

6 JOHNSON & JOHNSON, MCNEIL CONSUMER
7 HEALTHCARE, a Division of MCNEIL-PPC, INC., RICHARD W. WIEKING
MCKESSON CORPORATION, and WAL-MART CLERK, U.S. DISTRICT COURT
STORES, INC. NORTHERN DISTRICT OF CALIFORNIA

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

LMC

12 THOMAS B. GAINES, a deceased minor
13 child by and through his personal
representative(s) and/or successor(s) in
interest; DIANA L. GAINES, individually,
14 as Executor of the Estate of Thomas B.
Gaines, and as Thomas B. Gaines' personal
representative and successor in interest;
15 GARY D. GAINES, individually and as
Thomas B. Gaines' personal representative
and successor in interest; and THE
16 ESTATE OF THOMAS B. GAINES,
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18 Plaintiffs,

19 v.

20 JOHNSON & JOHNSON, a New Jersey
corporation; MCNEIL CONSUMER &
21 SPECIALTY PHARMACEUTICALS, a
Division of MCNEIL-PPC, INC., a New
Jersey corporation; MCKESSON
22 CORPORATION, a Delaware corporation;
WAL-MART STORES, INC., a Delaware
corporation; and DOES 1 through 100,
23 inclusive,

24 Defendants.

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Case No. 07-5503
DECLARATION OF THOMAS W.
PULLIAM, JR. IN SUPPORT OF
REMOVAL OF ACTION UNDER 28
U.S.C. § 1441(b) [DIVERSITY]

1 I, THOMAS W. PULLIAM, JR., declare:

2 1. I am an attorney admitted to practice before all courts of the State of
 3 California and am a partner with Drinker Biddle & Reath, LLP, attorneys for Defendants
 4 Johnson & Johnson, McNeil Consumer Healthcare Division of McNeil-PPC, Inc.
 5 (erroneously sued as McNeil Consumer & Specialty Pharmaceuticals, a Division of
 6 McNeil-PPC, Inc.) ("McNeil"), Wal-Mart Stores, Inc. ("Wal-Mart"), and McKesson
 7 Corporation ("McKesson") in this action (collectively "Defendants"). I make this
 8 Declaration based on my personal knowledge, in support of Johnson & Johnson's,
 9 McNeil's, and Wal-Mart's (collectively "Removing Defendants") removal of *Gaines, et.*
 10 *al. v. Johnson & Johnson, et. al.* (Case No. CGC-06-457600, Superior Court, County of
 11 San Francisco, California) to this Court. I would and could competently testify to the
 12 matters stated in this Declaration if called as a witness.

13 2. True and accurate copies of the Summons and Complaint in this action are
 14 attached as **Exhibit A**. The only other state court pleadings known to Defendants to have
 15 been filed and served on Defendants in this action are attached as **Exhibit B**. For the
 16 Court's convenience, a true and accurate copy of the Answer filed by Defendants in this
 17 action is attached as **Exhibit C**.

18 3. Johnson & Johnson was and is a corporation existing under the laws of the
 19 State of New Jersey, with its principal place of business in New Jersey.

20 4. McNeil was and is a corporation existing under the laws of the State of
 21 New Jersey, with its principal place of business in Pennsylvania.

22 5. Wal-Mart was and is a corporation existing under the laws of the State of
 23 Delaware, with its principal place of business in Arkansas.

24 6. McKesson was and is a corporation existing under the laws of the State of
 25 Delaware, with its principal place of business in San Francisco, California. McKesson
 26 consents to removal of this action to this Court.

27 7. The Removing Defendants will file a notice of the filing of this Notice of
 28 Removal and Removal in the San Francisco County Superior Court and will serve

plaintiffs' counsel with a copy.

8. Attached as **Exhibit D** is a true and accurate copy of Plaintiffs' Responses to Defendants' First Set of Special Interrogatories, served on February 12, 2007.

9. Attached as Exhibit E is a true and accurate copy of Plaintiffs' Supplemental Responses to Defendants' First Set of Special Interrogatories, served on May 3, 2007.

10. Attached as **Exhibit F** is a true and accurate copy of McKesson's Response to Plaintiffs' Special Interrogatories, Set One, served August 6, 2007.

11. Attached as **Exhibit G** is a true and accurate copy of Wal-Mart's Response to Plaintiffs' Special Interrogatories, Set One, served August 6, 2007.

12. Attached as **Exhibit H** is a true and correct copy of Plaintiffs' Supplemental Response to Defendants' First Request for Production of Documents, served on May 3, 2007, including three news articles (dated April 15, 2002, November 24, 2006, and November 25, 2006) that were attached thereto.

13. Attached as **Exhibit I** is a true and accurate copy of the Declaration of Beverly Taylor, Pharmacy Manager for the pharmacy of the Wal-Mart Store in Lincolnton, North Carolina (Store 1209). Defendants' counsel received the Declaration of Beverly Taylor on October 9, 2007.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 29, 2007.

Thomas W. Pulliam Jr.
THOMAS W. PULLIAM, JR.